

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

400P0236

HOUSE JUDICIARY ENGROSSED NO. **HB 1061** - 1/17/2008

Introduced by: The Committee on Judiciary at the request of the Office of the Attorney General

1 FOR AN ACT ENTITLED, An Act to revise the penalty for the distribution or possession with
2 intent to distribute marijuana to a minor.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 22-42-7 be amended to read as follows:

5 22-42-7. The distribution, or possession with intent to distribute, of less than one-half ounce
6 of marijuana without consideration is a Class 1 misdemeanor; otherwise, the distribution, or
7 possession with intent to distribute, of one ounce or less of marijuana is a Class 6 felony. The
8 distribution, or possession with intent to distribute, of more than one ounce but less than
9 one-half pound of marijuana is a Class 5 felony. The distribution, or possession with intent to
10 distribute, of one-half pound but less than one pound of marijuana is a Class 4 felony. The
11 distribution, or possession with intent to distribute, of one pound or more of marijuana is a Class
12 3 felony. ~~However, the distribution of any amount of marijuana to a minor is a Class 4 felony.~~
13 The distribution, or possession with intent to distribute, of one ounce or less of marijuana to a
14 minor is a Class 5 felony. The distribution, or possession with intent to distribute, of more than



1 one ounce but less than pound of marijuana to a minor is a Class 4 felony. The distribution, or
2 possession with intent to distribute, of one pound or more of marijuana to a minor is a Class 3
3 felony. A first conviction of a felony under this section shall be punished by a mandatory
4 sentence in the state penitentiary or county jail of at least thirty days, which sentence may not
5 be suspended. A second or subsequent conviction of a felony under this section shall be
6 punished by a mandatory sentence of at least one year. Conviction of a Class 1 misdemeanor
7 under this section shall be punished by a mandatory sentence in county jail of not less than
8 fifteen days, which sentence may not be suspended. A civil penalty, not to exceed ten thousand
9 dollars, may be imposed, in addition to any criminal penalty, upon a conviction of a felony
10 violation of this section.